Court No. - 35
Case :- WRIT - A No. - 14738 of 1989
Petitioner :- Mohd. Abdul Salim
Respondent :- Principal Maharani Laxmi Bai Medical College
Counsel for Petitioner :- A.K. Sharma,Dileep Kumar,Sanjeev Singh
Counsel for Respondent :- S.C.,V.P. Mathur

With

Case :- WRIT - A No. - 50462 of 2006
Petitioner :- Smt. Varsha
Respondent :- State of U.P. and Others
Counsel for Petitioner :- Rakesh Kumar Shukla,Dileep Kumar
Counsel for Respondent :- C.S.C.

Hon'ble Ajay Bhanot,J.

Heard Shri Sanjeev Singh, learned counsel for the petitioner. None appears for the respondent. Name of counsel for the respondent is shown in the cause list.

The petitioners were appointed as Operation Theatre Technicians on a temporary and ad-hoc basis. The process or the manner of appointment was clearly through the backdoor. Educational qualifications of the petitioners to hold the sensitive post of an Operation Theatre Technician are not disclosed in the writ petition. The appointments did not confer any right upon the petitioners. Their services were terminated simplicitor after one week of working. The petitioners were granted an interim order when they

approached this Court by instituting this writ petition. The petitioners continued to work on the strength of an interim order for long years.

The writ petition was dismissed in the year 2001. However, despite the dismissal of the writ petition, the petitioners were allowed to work as Operation Theatre Technicians. They remained on the rolls of the State hospital without any lawful basis.

The petitioner no. 1 has superannuated from service on 31.05.2021.

The petitioner no. 2 died in the year 2006. His wife was granted a compassionate appointment in the year 2006. On the date of his death, her husband was not in lawful employment of the State hospital. The appointment of petitioner no. 2 was illegal and void ab initio. However, she too was permitted to continue in office.

The state of affairs is indeed shocking and the apathy of the officials to countenance the illegal appointments is a matter of grave concern.

The submission of the learned counsel for the petitioner that the matter may be considered sympathetically is misconceived. Grossly illegal appointments cannot be validated by the Courts on misplaced sympathies. Appointments to public

offices are strictly regulated by service rules and also constitutional provisions which contemplate absolute probity and full transparency in the process of appointments. The Courts cannot hold to the contrary by legitimating illegal appointments on sympathetic considerations.

The Principal Secretary, Medical Education, Government of U.P., Lucknow, shall cause an enquiry to be conducted against the officials responsible for this state of affairs and take appropriate action as per law.

With the aforesaid observations, the writ petitions are dismissed.

A copy of this order be placed before Principal Secretary, Medical Education, Government of U.P., Lucknow for necessary compliance.

Order Date :- 28.3.2023/Vandit

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Counsel for Respondent :- S.C.,V.P. Mathur

Re: Civil Misc. Delay Condonation Application No. 10 of 2022

This is a delay condonation application supported by an affidavit.

Though, cause for delay is not sufficient and the delay is not liable to be condoned. However, in the interest of justice and to ensure a finality to the controversy on merits, the delay is being condoned.

The application is allowed.

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Counsel for Petitioner :- A.K. Sharma,Dileep Kumar,Sanjeev Singh

Counsel for Respondent :- S.C.,V.P. Mathur

Re: Civil Misc. Recall/Restoration Application No. 11 of 2022

Heard Sri Sanjeev Singh, learned counsel for the petitioner.

This is an application to recall the order dated 25.09.2001, whereby this petition was dismissed for want of prosecution. It is supported with an affidavit.

Though the reasons given in the restoration application for non appearance of learned counsel for the petitioner on 25.09.2001 are not sufficient. However, in the interest of justice and to ensure a finality to the controversy on merits, the restoration application is allowed.

The order dated 25.09.2001 dismissing the petition for want of prosecution is recalled.

The petition is restored to its original number and status.

Order Date :- 28.3.2023/Vandit

Digitally signed by :-
VANDIT AGRAWAL
High Court of Judicature at Allahabad